

26-15-1. Definitions.

As used in this chapter:

(1) (a) "Food handler" means any person working part-time or full-time in a food service establishment who moves food or food containers, prepares, stores, or serves food; comes in contact with any food, utensil, tableware or equipment; or washes the same. The term also includes owners, supervisors, and management persons, and any other person working in a food-service establishment. The term also includes any operator or person employed by one who handles food dispensed through vending machines; or who comes into contact with food contact surfaces or containers, equipment, utensils, or packaging materials used in connection with vending machine operations; or who otherwise services or maintains one or more vending machines.

(b) "Food handler" does not include a producer of food products selling food at a farmers market as defined in Subsection 4-5-2(5).

(2) "Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the public health or well being of the people within the state.

(3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen that can affect public health.

Amended by Chapter 146, 2007 General Session

26-15-2. Minimum rules of sanitation established by department.

The department shall establish and enforce, or provide for the enforcement of minimum rules of sanitation necessary to protect the public health. Such rules shall include, but not be limited to, rules necessary for the design, construction, operation, maintenance, or expansion of:

(1) restaurants and all places where food or drink is handled, sold or served to the public;

(2) public swimming pools;

(3) public baths including saunas, spas, massage parlors, and suntan parlors;

(4) public bathing beaches;

(5) schools which are publicly or privately owned or operated;

(6) recreational resorts, camps, and vehicle parks;

(7) amusement parks and all other centers and places used for public gatherings;

(8) mobile home parks and highway rest stops;

(9) construction or labor camps;

(10) jails, prisons and other places of incarceration or confinement;

(11) hotels and motels;

(12) lodging houses and boarding houses;

(13) service stations;

(14) barbershops and beauty shops;

(15) physician and dentist offices;

(16) public buildings and grounds;

(17) public conveyances and terminals; and

(18) commercial tanning facilities.

Amended by Chapter 25, 2007 General Session

26-15-3. Department to advise regarding the plumbing code.

(1) The department shall advise the Division of Occupational and Professional Licensing and the Uniform Building Code Commission with respect to the adoption of a state construction code under Section 15A-1-204, including providing recommendations as to:

(a) a specific edition of a plumbing code issued by a nationally recognized code authority; and

(b) any amendments to a nationally recognized code.

(2) The department may enforce the plumbing code adopted under Section 15A-1-204.

(3) Section 58-56-9 does not apply to health inspectors acting under this section.

Amended by Chapter 14, 2011 General Session

26-15-4. Rules for wastewater disposal systems.

The department shall establish rules necessary to protect the public health for the design, and construction, operation and maintenance of individual wastewater disposal systems.

Enacted by Chapter 126, 1981 General Session

26-15-5. Requirements for food handlers -- Training program and testing requirements for permit -- Rulemaking.

(1) As used in this section:

(a) "Approved food handler training program" means a training program described by this section and approved by the department.

(b) "Food handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food service establishment.

(c) "Food handler permit" means a permit issued by a local health department to allow a person to work as a food handler.

(d) "Food service establishment" has the same meaning as provided in Section 26-15a-102.

(e) "Provider" means a person or entity that provides an approved food handler training program.

(2) A person may not work as a food handler for a food service establishment unless the person:

(a) successfully completes an approved food handler training program within 14 days after the day on which the person begins employment that includes food handler services; and

(b) obtains a food handler permit within 30 days after the day on which the person begins employment that includes food handler services.

(3) An approved food handler training program shall include:

- (a) at least 75 minutes of training time;
- (b) an exam, which requires a passing score of 75% and, except as provided in Subsection (11), consists of:
 - (i) 40 multiple-choice questions developed by the department, in consultation with local health departments; and
 - (ii) four content sections designated by rule of the department with 10 randomly selected questions for each content section; and
- (c) upon completion, the awarding of a certificate of completion that is valid with any local health department in the state for 30 days after the day on which the certificate is issued:
 - (i) to a student who:
 - (A) completes the training; and
 - (B) passes the exam described in this Subsection (3) or an exam approved by the department in accordance with Subsection (11); and
 - (ii) which certificate of completion:
 - (A) includes student identifying information determined by department rule; and
 - (B) is delivered by mail or electronic means.
- (4) (a) A person may obtain a food handler permit by:
 - (i) providing a valid certificate of completion of an approved food handler training program and an application, approved by the local health department, to a local health department; and
 - (ii) paying a food handler permit fee to the local health department.
- (b) (i) A local health department may charge a food handler permit fee that is reasonable and that reflects the cost of managing the food safety program.
- (ii) The department shall establish by rule the maximum amount a local health department may charge for the fee described in Subsection (4)(b)(i).
- (5) A person working as a food handler for a food service establishment shall obtain a food handler permit:
 - (a) before handling any food;
 - (b) within 30 days of initial employment with a food service establishment; and
 - (c) within seven days of the expiration of an existing food handler permit.
- (6) (a) A person who holds a valid food handler permit under this section may serve as a food handler throughout the state without restriction.
- (b) A food handler permit granted after June 30, 2013, is valid for three years from the date of issuance.
- (7) A person may not serve as an instructor of an approved food handler training program, unless the person is registered with a local health department as an instructor.
- (8) The department, in consultation with local health departments, shall:
 - (a) approve the content of an approved food handler training program required under Subsection (3);
 - (b) approve, as qualified, each provider; and
 - (c) in accordance with applicable rules made under Subsection (12), provide a means to authenticate:
 - (i) documents used in an approved food handler training program;
 - (ii) the identity of an approved instructor; and
 - (iii) an approved provider.

- (9) An approved food handler training program shall:
- (a) provide basic instruction on the Centers for Disease Control and Prevention's top five foodborne illness risk factors, including:
 - (i) improper hot and cold holding temperatures of potentially hazardous food;
 - (ii) improper cooking temperatures of food;
 - (iii) dirty or contaminated utensils and equipment;
 - (iv) poor employee health and hygiene; and
 - (v) food from unsafe sources;
 - (b) be offered through:
 - (i) a trainer-led class;
 - (ii) the Internet; or
 - (iii) a combination of a trainer-led class and the Internet;
 - (c) maintain a system to verify a certificate of completion of an approved food handler training program issued under Subsection (3) to the department, a local health department, and a food service establishment; and
 - (d) provide to the department unrestricted access to classroom training sessions and online course materials at any time for audit purposes.
- (10) (a) A provider that provides an approved food handler training program may charge a reasonable fee.
- (b) If a person or an entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name or business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify an individual to work as a food handler in the state.
- (11) (a) Subject to the approval of the department every three years, a provider may use an exam that consists of questions that do not conform with the provisions of Subsection (3)(b), if:
- (i) the provider complies with the provisions of this Subsection (11);
 - (ii) the provider pays a fee every three years to the department, which fee shall be determined by the department and shall reflect the cost of the review of the alternative test questions; and
 - (iii) an independent instructional design and testing expert provides a written report to the department containing a positive recommendation based on the expert's analysis as described in Subsection 11(b).
- (b) (i) A provider may request approval of a different bank of test questions other than the questions developed under Subsection (3) by submitting to the department a proposed bank of at least 200 test questions organized by learning objective in accordance with Subsection (9)(a).
- (ii) A provider proposing a different bank of test questions under this Subsection (11) shall contract with an independent instructional design and testing expert approved by the department at the provider's expense to analyze the provider's bank of test questions to ensure the questions:
- (A) effectively measure the applicant's knowledge of the required learning objectives; and
 - (B) meet the appropriate testing standards for question structure.

(c) If the department provides written notice to a provider that any test question of the provider's approved exam under this Subsection (11) inadequately tests the required learning objectives, the provider shall make required changes to the question within 30 days after the day on which written notice is received by the provider.

(d) A food handler exam offered by a provider may be:

- (i) a written exam;
- (ii) an online exam; or
- (iii) an oral exam, if circumstances require, including when an applicant's language or reading abilities interfere with taking a written or online exam.

(e) A provider shall routinely rotate test questions from the test question bank, change the order of test questions in tests, and change the order of multiple-choice answers in test questions to discourage cheating.

(12) (a) When exercising rulemaking authority under this section the department shall comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall, by rule, establish requirements designed to inhibit fraud for an approved food handler training program described in this section.

(c) The requirements described in Subsection (12)(b) may include requirements to ensure that:

- (i) an individual does not attempt to complete the program or exam in another individual's place;
- (ii) an individual taking the approved food handler training program is focused on training material and actively engaged throughout the training period;
- (iii) if the individual is unable to participate online because of technical difficulties, an approved food handler training program provides technical support, such as requiring a telephone number, email, or other method of communication to allow an individual taking the online course or test to receive assistance;
- (iv) an approved food handler training program provider maintains a system to reduce fraud as to who completes an approved food handler training program, such as requiring a distinct online certificate with information printed on the certificate that identifies a person taking an online course or exam, or requiring measures to inhibit duplication of a certificate of completion or of a food handler permit;
- (v) the department may audit an approved food handler training program;
- (vi) an individual taking an online course or certification exam has the opportunity to provide an evaluation of the online course or test;
- (vii) an approved food handler training program provider track the Internet protocol address or similar electronic location of an individual who takes an online course or certification exam;
- (viii) an individual who takes an online course or exam uses an electronic signature; or
- (ix) if the approved food handler training program provider learns that a certificate of completion does not accurately reflect the identity of the individual who took the online course or certification exam, an approved food handler training program provider invalidates the certificate of completion.

Repealed and Re-enacted by Chapter 444, 2013 General Session

26-15-5.1. Exemptions to food handler requirements.

(1) The requirements of Section 26-15-5 do not apply to an individual who handles food:

(a) at an event sponsored by a charitable organization where the organization provides food to a disadvantaged group free of charge; and

(b) in compliance with rules established by the department under Subsection (2).

(2) The department may establish additional requirements, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an event sponsored by a charitable organization under Subsection (1).

Enacted by Chapter 327, 2014 General Session

26-15-7. Rules for controlling vector-borne diseases and pests.

The department shall adopt rules to provide for the protection of the public health by controlling or preventing the spread of vector-borne diseases and infections and to control or reduce pests by the elimination of insanitary conditions which may include but not be limited to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

Enacted by Chapter 126, 1981 General Session

26-15-8. Periodic evaluation of local health sanitation programs -- Minimum statewide enforcement standards -- Technical assistance.

(1) The department shall periodically evaluate the sanitation programs of local health departments to determine the levels of sanitation being maintained throughout the state.

(2) (a) The department shall ensure that each local health department's enforcement of the minimum rules of sanitation adopted under Section 26-15-2 for restaurants and other places where food or drink is handled meets or exceeds minimum statewide enforcement standards established by the department by administrative rule.

(b) Administrative rules adopted under Subsection (2)(a) shall include at least:

(i) the minimum number of periodic on-site inspections that shall be conducted by each local health department;

(ii) criteria for conducting additional inspections; and

(iii) standardized methods to be used by local health departments to assess compliance with the minimum rules of sanitation adopted under Section 26-15-2.

(c) The department shall help local health departments comply with the minimum statewide enforcement standards adopted under this Subsection (2) by providing technical assistance.

Amended by Chapter 297, 2011 General Session

26-15-9. Impoundment of adulterated food products authorized.

The department and local health departments may impound any food products

found in places where food or drink is handled, sold, or served to the public that is intended for but found to be adulterated and unfit for human consumption; and, upon five days notice and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the same if deemed necessary for the protection of the public health.

Enacted by Chapter 126, 1981 General Session

26-15-11. Statutes on smoking considered public health laws.

Title 26, Chapter 38, Utah Indoor Clean Air Act, is a public health law and shall be enforced by the department and local health departments.

Amended by Chapter 281, 1994 General Session

26-15-12. Rules to implement statutes on smoking.

The department shall adopt rules necessary and reasonable to implement the provisions of Title 26, Chapter 38, Utah Indoor Clean Air Act.

Amended by Chapter 281, 1994 General Session

26-15-13. Regulation of tanning facilities.

(1) For purposes of this section:

(a) "Minor" means a person under 18 years of age.

(b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(c) (i) "Tanning device" means equipment to which a tanning facility provides access that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including:

(A) a sunlamp; and

(B) a tanning booth or bed.

(ii) "Tanning device" does not include a phototherapy device.

(d) "Tanning facility" means a commercial location, place, area, structure, or business that provides access to a tanning device.

(2) A tanning facility shall:

(a) annually obtain a permit to do business as a tanning facility from the local health department with jurisdiction over the location in which the facility is located; and

(b) in accordance with Subsection (3) post a warning sign in a conspicuous location that is readily visible to a person about to use a tanning device.

(3) The posted warning and written consent required by Subsections (2) and (5) shall be developed by the department through administrative rules and shall include:

(a) that there are health risks associated with the use of a tanning device;

(b) that the facility may not allow a minor to use a tanning device unless the minor:

(i) has a written order from a physician; or

(ii) at each time of use is accompanied at the tanning facility by a parent or legal guardian who provides written consent authorizing the minor to use the tanning device.

(4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning device unless:

(a) the minor has a written order from a physician as defined in Section 58-67-102, to use a tanning device as a medical treatment; or

(b) (i) the minor's parent or legal guardian appears in person at the tanning facility each time that the minor uses a tanning device, except that the minor's parent or legal guardian is not required to remain at the facility for the duration of the use; and

(ii) the minor's parent or legal guardian signs the consent form required in Subsection (5).

(5) The written consent required by Subsection (4) shall be signed and dated each time the minor uses a tanning device at the facility, and shall include at least:

(a) information concerning the health risks associated with the use of a tanning device; and

(b) a statement that:

(i) the parent or legal guardian of the minor has read and understood the warnings given by the tanning facility, and consents to the minor's use of a tanning device; and

(ii) the parent or legal guardian agrees that the minor will use protective eye wear.

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying:

(a) minimum requirements a tanning facility shall satisfy to obtain a permit under Subsection (2);

(b) the written information concerning health risks a facility should include in the posted signs required by Subsection (3) and in the consent form required by Subsection (5);

(c) procedures a tanning facility shall implement to ensure a minor and the minor's parent or legal guardian comply with Subsections (4) and (5), including use of a statewide uniform form:

(i) for a parent or legal guardian to certify and give consent under Subsection (5); and

(ii) that clearly identifies the department's seal or other means to indicate that the form is an official form of the department; and

(d) the size, placement, and content of the sign a tanning facility must post under Subsection (2).

(7) (a) A violation of this section:

(i) is a class C misdemeanor; and

(ii) may result in the revocation of a permit to do business as a tanning facility.

(b) If a person misrepresents to a tanning facility that the person is 18 years of age or older, the person is guilty of a class C misdemeanor.

(8) This section supercedes any ordinance enacted by the governing body of a political subdivision that:

(a) imposes restrictions on access to a tanning device by a person younger than age 18 that is not essentially identical to the provisions of this section; or

(b) that require the posting of warning signs at the tanning facility that are not essentially identical to the provisions of this section.

Amended by Chapter 409, 2012 General Session